

Minutes of the Planning Commission meeting held on Thursday, April 15, 2010, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Sheri Van Bibber, Vice-Chair
Tim Taylor
Karen Daniels
Ray Black
Chad Wilkinson, Community Development Planner
Tim Tingey, Community & Economic Development Director
G.L. Critchfield
Citizens

Excused: Jim Harland, Chair
Jeff Evans
Kurtis Aoki

Ms. Van Bibber opened the meeting and welcomed those present.

APPROVAL OF MINUTES

Tim Taylor made a motion to approve the minutes as written from April 1, 2010. Seconded by Karen Daniels.

A voice vote was made. The minutes were approved unanimously, 4-0.

CONFLICT OF INTEREST

There were no conflicts of interest related to this agenda.

APPROVAL OF FINDINGS OF FACT

Tim Taylor made a motion to approve the Findings of Fact for Conditional Use Permits for Larry H. Miller Toyota, P and F Restaurant Management and Brent and Nicole Wintch. Seconded by Karen Daniels.

A voice vote was made. The motion passed unanimously, 4-0.

EXPRESSIVE DESIGN ACADEMY – 5858 South 900 East, Project #10-133

Sheila Jacobs was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for a Conditional Use Permit to operate a cosmetology and beauty academy. He stated that the property is located on the west side of 900 East in the C-D-C zone. He said that the applicant will be making some minor changes to the façade of the existing building. Mr. Wilkinson stated that the code does not specify a parking rate for cosmetology schools and that the director has discretion in this situation. He said that staff has analyzed comparable uses and parking needs to determine the parking rate, and that consideration was given to include customer volume. He stated that the code specifies a parking rate for barbershops and beauty salons of 3 spaces per chair, and that staff has concluded that 2 spaces per chair is a reasonable parking rate for a beauty school. Mr. Wilkinson stated that the applicant has indicated that they have 32 potential students, and assuming that every student had a

customer it would equate to an additional 64 spaces, based on two spaces per chair. He said that staff has requested that the applicant enter into an agreement with some adjacent property owners to provide some additional parking spaces. He stated that the applicant has fulfilled this request by working with a church across 900 East that will allow their parking lot to be used by some of the students. He stated that the code does allow for shared parking within a certain distance, but staff has some concern about parking across 900 East, which is a busy street. Mr. Wilkinson said that the second story of the existing building is not going to be used, which is important as it would require additional parking. He stated that if this use expands to the second floor in the future the applicant will have to provide evidence of additional parking.

Karen Daniels asked if there is a crosswalk or stoplight in this area on 900 East. Mr. Wilkinson responded that there is not. Sheri Van Bibber stated that this particular area has a lot of auto accidents due to lack of a stoplight. Tim Taylor stated that legally there is a crosswalk but it just isn't marked.

Sheila Jacobs, 4700 South 700 East, stated that she owns the Expressive Design Academy with her daughters. She stated that Al Ellis is also present and that he is the owner of the building. She stated that the parking at the church will be for students only and is not intended for customer use. She said that there will be a shuttle service that will transport students from the church lot over to the school. Ms. Jacobs stated that they will encourage carpooling and that she's been working with UDOT to use a lot near the freeway that would allow parking by the students and shuttle transport to the school. Ms. Jacobs confirmed that she has read all of the conditions recommended by staff.

Karen Daniels asked if the school schedule will be set within a particular block of hours in order to make the shuttle viable. Ms. Jacobs responded that there will be two sessions, one will run during the morning hours and another will run in the afternoon hours from Wednesday through Saturday. Ms. Jacobs stated that Mr. Ellis measured the property today and determined that there is room for 6 to 8 more parking spaces at the site. Sheri Van Bibber asked if there will be a shuttle 100 percent of the time. Ms. Jacobs replied that it is her goal to always have the shuttle. She stated that the students will not begin accepting customers until January, which is when the shuttle will begin operating. She said that she plans to purchase a shuttle before that time and that her husband will obtain the proper licensing to drive it. Ms. Jacobs stated that she has not seen a crosswalk across 900 East at this location. Tim Taylor responded that state statutes indicate that if there is an intersection it is inferred that a crosswalk exists, even if it isn't marked. Ray Black asked if there is any guarantee in place at this time pertaining to shared parking. Ms. Jacobs responded that a letter from the pastor across the street was included with her application allowing her students to use the church parking lot. Ms. Van Bibber suggested that the motion include a condition that a shuttle is mandatory. She asked if there is any chance that Ms. Jacobs could arrange parking with the adjacent mortuary. Ms. Jacobs replied that the mortuary had some negative experiences with students from the prior school that occupied this building and are not eager to share parking. She said that once she has proven that they are good neighbors then a parking agreement may be reached in the future.

Tim Taylor stated that the Commission can require a business to meet parking requirements, but he doesn't know if they can require a business to have a shuttle. Chad Wilkinson stated that the code gives the Planning Commission discretion when it comes to shared parking arrangements. He said that it would be reasonable to include a requirement that ensures the health, safety and welfare of pedestrians. Mr. Taylor stated that he is concerned about the timing of the shuttle. Mr. Black stated that it should be the students' responsibility to make sure that they are on time when the shuttle comes to pick them up.

Ms. Van Bibber opened the public comment portion for this agenda item.

Cortanie Boutwell, 5762 Linden Street, stated that if a student is late they will be able to call and have the shuttle meet them at a specific time. She said that the shuttle will be available throughout the day.

Ms. Van Bibber closed the public comments.

Karen Daniels stated that she would like to modify condition 3 to include shuttle availability. Ms. Daniels made a motion to approve a Conditional Use Permit for Expressive Design Academy, located at 5858 South 900 East, subject to conditions:

1. The project shall meet all applicable building code standards. The building official will require the applicant to provide stamped and sealed plans from appropriate design professionals to include a code analysis.
2. The project shall meet all current fire codes and Murray Water and Sewer Department requirements.
3. Adequate parking is provided and striped to meet parking regulations for the business use and additional parking be provided for the school use with agreements with adjoining properties, and to have a shuttle available at all times for use from the Discovery Christian Community parking lot and other off site parking across 900 East, as approved by the Planning Commission and staff.
4. Use of a trash container shall be screened as required by Section 17.76.170.
5. The second story of the building shall not be used or leased without meeting city code requirements and additional parking requirements.

Seconded by Tim Taylor.

Call vote recorded by Tim Tingey.

 A Sheri Van Bibber

 A Karen Daniels

 A Tim Taylor

 A Ray Black

Motion passed, 4-0.

ALLIANCE MOTORS, INC. – 5948 S. 300 W., Project #10-134

Stewart Knight, 254 South 600 East #100, was present to represent this application. Chad Wilkinson reviewed the location and request for a Conditional Use Permit for indoor auto sales. He stated that the property is within the M-G-C zone and is surrounded on three sides by the same zone with a residential zone across the street. He said that the automobiles for sale would be kept inside and the outside parking is for customers and employees. Mr. Wilkinson stated that the site currently does not meet landscaping regulations as some prior landscaping has been replaced by rocks. He stated that there is a trash container that needs to be enclosed, and that there is an area along the north side of the property that needs to be addressed by landscaping or other option to clean up the weeds growing there. He said that there are some other items that need to be addressed which are outlined in the conditions recommended by staff. Mr. Wilkinson stated that the code requires that owners of multi-tenant buildings must certify that the property will comply with applicable zoning ordinance requirements. He said that staff is recommending approval of this request.

Karen Daniels asked if the rocks can be moved from the landscape area to the northern side that is overgrown with weeds. Mr. Wilkinson replied that this is a potential solution as long as a weed barrier is placed beneath the rocks.

Stewart Knight stated that he is with Majestic Investment, which owns the property. He stated that striping the lot is not a problem. He said that they have owned this building for 30 years and have only had one trash enclosure. He stated that although an enclosure is aesthetically pleasing, it would have a negative impact on the parking. Mr. Knight suggested that instead of screening the trash receptacle perhaps it could be moved inside. He said that this requirement has never been placed on other tenants. Ms. Daniels stated that if there is a trash bin outside, it needs to be enclosed. She said that if the bin is moved inside then that would resolve the issue. Mr. Knight stated that he is concerned about preserving the parking stalls at this location. He said that in regards to landscaping, when this building was originally approved it was noted on the plans that there would be visqueen and gravel throughout the property. Ms. Van Bibber asked when the building was approved. Mr. Knight responded that it was in 1980. He said that he would like to conserve water and that xeriscape seems to be the best solution. He stated that he would like to keep the gravel, and that he would be willing to comply with the new mixed use development requirements that allow gravel with some perennial shrubs. Mr. Knight stated that the tenants at this location are industrial businesses and it is difficult to keep the landscape alive due to heavy use of vehicles and equipment.

Ray Black stated that the staff report indicates the site does not meet landscape regulations, and that the building permit issued in 1980 indicates that landscaping was required at that time. Mr. Black referred to the Planning Commission minutes attached to the staff report that state landscape was required at the time they reviewed this item in 1979. Mr. Knight stated that he can provide copies of the original plans, and that although they do show landscape, that the Commission will allow xeriscape instead. Karen Daniels stated that this is a code requirement, and that Mr. Knight would need to meet with the City Forester to determine what type of plants and trees are appropriate

for this area. Chad Wilkinson stated that the code specifies that there must be a 40 percent minimum of turf, although the City Forester has some discretion to include shrubs or living ground cover outside of the minimum amount. Mr. Wilkinson stated that xeriscape does not mean there is no vegetation, but rather water wise vegetation, and that there is a tree requirement in the code. He said that the applicant would have to go to the Board of Adjustment for a variance in order to get this requirement waived. Karen Daniels asked for clarification regarding storage of the dumpster inside. Mr. Wilkinson replied that if the trash storage is going to be inside, then a screened enclosure is not required.

There were no public comments related to this agenda item.

Mr. Black stated that if the code specifies certain requirements, then the Planning Commission must abide by the code. He made a motion to approve the Conditional Use Permit for indoor auto sales, for the property located at 5948 South 300 West, subject to conditions:

1. The project shall meet all applicable building and fire code standards. No repair and detailing is permitted.
2. The project shall meet all Fire Department requirements to meet current fire codes.
3. A formal landscaping plan meeting the requirements of Chapter 17.68 of the Murray Municipal Code shall be submitted and approved by the Murray City Forester and installed as approved prior to occupancy. The plan shall show landscaping within the 10 foot front setback area of all street frontages surrounding the property to meet the requirements of the City Code 17.76.180. The weedy area to the north end of the building will need to be landscaped to meet zoning regulations.
4. All trash containers shall be screened as required by Section 17.76.170.
5. The parking stalls shall be striped on the site, including 2 disabled stalls including a van accessible stall will need to be striped with sign posted, to meet parking and ADA regulations.
6. The property owner will need to submit an owner's certification affidavit that the owner's property will comply with all respects to all applicable zoning ordinances. A formal landscaping/sprinkler plan will need to be submitted and landscaping installed prior to business licensing for this business.
7. Meet all Water and Sewer Department requirements including compliance for any repair or washing of vehicles will require an oil separator per I.P.C. sec. 1003.4.2.

Seconded by Tim Taylor.

Call vote recorded by Tim Tingey.

A _____ Sheri Van Bibber

A _____ Karen Daniels

A _____ Tim Taylor

A _____ Ray Black

Motion passed, 4-0.

MOUNTAIN MEDICAL – 5323 S. Woodrow Street, Project #10-135

Clark Davis was present to represent this application. Chad Wilkinson reviewed the location and request for an expansion to an existing medical building. He stated that the building would be extended to the south and that the applicant is requesting a parking lot expansion across Woodrow Street to the west. He said that there are some parcels that will need to be consolidated and some existing homes that will need to be removed in order to accommodate this expansion. Mr. Wilkinson stated that staff has reviewed the parking information submitted by the applicant and found that some areas were excluded from the parking calculation that should have been included. He said that the site is 8 spaces short of what is required by the ordinance. He stated that this issue has been discussed with the applicant to determine a resolution, but in this situation there is no written agreement with the adjacent property owner to allow for additional parking off site. Mr. Wilkinson said that any off site parking must be compliant with code standards. He stated that until the parking issue has been addressed, staff is recommending that this item be continued to a future date.

Clark Davis, 544 South Green Street, stated that he is the CEO of Mountain Medical Physician Specialists. He said that the company currently occupies the entire bottom floor of the existing building. He stated that the group is comprised of 60 physicians with various specialties. Mr. Davis provided some background on the company and said that they work in seven hospitals in Utah and Idaho. He said that they have six offices throughout Salt Lake City and about 200 employees, with over 100 of those working in Murray. He stated that medical care is needed in this community and his company is growing. Mr. Clark stated that parking is a concern and that he needs available spaces for patients. He said that he is willing to work with staff on meeting parking standards. He stated that he believes he has been a good neighbor to adjacent property owners and that his business is currently out of space and needs to expand. Mr. Clark stated that with the expansion he will be able to add more employees, bringing more jobs to Murray. He said that he would like to obtain approval of the Conditional Use Permit with a limitation stating that parking needs to be satisfied with staff. He stated that he has met with the property owner across the street and will be finalizing an agreement tomorrow pertaining to additional parking. Mr. Clark stated that he would also be willing to shuttle his employees from a different location within Murray.

Mike Groth, 3115 East Lion Lane, is the architect for this project. He said that he has discussed several options for parking with staff and has submitted updated parking calculations. He said that another option would be to enter into a parking agreement with the State Farm building located adjacent to this property, although that parking lot would require improvements. Mr. Groth stated that another option is to acquire another piece of property to the west of the new parking lot although the owner of that property

has not been approached about this possibility. He said that it may be possible to delay building out the second floor until additional property for parking is obtained, and that he would like to see this conditional use approved tonight with the ability to finalize the parking details with staff at a later time.

Karen Daniels stated that there are a lot of unresolved issues, and asked when the item will be back on the agenda if it is continued. Mr. Wilkinson responded that it will likely be on the May 6th meeting agenda. He stated that staff would feel more comfortable if the parking details were resolved and a final site plan submitted that meets the code. Ms. Daniels and Mr. Black stated that they agree with continuing this item. Mr. Taylor asked if another public notice will be sent regarding the newly scheduled meeting. Mr. Wilkinson replied that if the Commission continues the item to a date and time certain then it will not be noticed again. He said that it may help with the parking situation if the second floor isn't built out at this time but that the parking still needs to be resolved.

Ms. Van Bibber opened the meeting for public comments.

Wallace James, 77 West 5300 South, stated that he lives directly next to the parking lot. He said that the parking lot is packed and that the traffic on Woodrow is substantial. He stated that there is not an easy way to get onto 5300 South. Mr. James stated that he thinks it would be dangerous to have people crossing the street from a different parking lot and that a lot of commercial vehicles use that street. He said that he opposes this conditional use application and that if parking is not available the building should not be expanded. He stated that he has gotten conflicting information as to how much space this business actually occupies in the building.

James Prindiville, 97 West Woodrow, lives on the south side of Woodrow and is separated by one residential lot from this building. He stated that he is concerned that this development doesn't seem to be going in any particular direction and that a number of properties were purchased and then nothing happened with them. He said that this building overshadows the James' house and that the generator that fires every week is so loud that he can hear it while inside his house. He stated that if this building expansion takes place it will completely block the James' house from the west and also affect the house to the south. Mr. Prindiville stated that this structure was built in a residential neighborhood and there isn't a buffer zone around it. He said that he is concerned about the amount of traffic and the way the driveways are designed for this building. Ms. Van Bibber stated that the road in front of the James' house always seems to be busy.

Ginger James, 77 West 5300 South, stated that she is very unhappy with this development. She stated that her home is beautiful and has a picture window in the family room that faces west, and a kitchen window that faces west, and soon her view will be a stucco wall.

There were no additional comments from the public.

Clark Davis stated that he understands the concerns of the neighbors, but clarified that his company bought this property after it had been rezoned. He said that with a world class facility like Intermountain Medical Center in the middle of Murray, there has to also

be an expansion of physician offices. He stated that he agrees that it would be beneficial to sit down and determine the direction of the development in this area. Mr. Davis stated that the goal has always been to provide good medical care and he needs the facilities to do that.

Ray Black made a motion to continue this item to the meeting on May 6th at 6:30 in order for the applicant to provide new site plans and written parking agreements that meet the requirements. Karen Daniels seconded the motion, and stated for the record that this is for the Conditional Use Permit request for Mountain Medical located at 5323 South Woodrow Street.

Call vote recorded by Tim Tingey.

A _____ Sheri Van Bibber

A _____ Karen Daniels

A _____ Tim Taylor

A _____ Ray Black

Motion passed, 4-0.

TEXT ORDINANCE AMENDMENT – Board of Adjustment, Section 17.16.100

Tim Tingey presented this item. He stated that the Board of Adjustment is a very important Board for the City and is the appeal body for Planning Commission decisions and decisions by staff in addition to determining variances. He said that there are currently five members on the Board and there is geographic representation based on the Council districts. Mr. Tingey stated that the code indicates any Board vacancies need to be filled as soon as possible in order to have a quorum and continue with business. He said that in recent months there has been a concern with the interest and qualifications of people that may want to serve on this Board when there are geographic restrictions. He stated that staff is recommending changes to the ordinance to eliminate Section 17.16.100 so as not to require geographic representation of Board of Adjustment members. Mr. Tingey stated that staff is requesting that the Planning Commission forward a recommendation of approval to the City Council.

Tim Taylor asked if this is a common practice in other municipalities. Mr. Tingey stated that geographic representation is not a requirement of state code, but that staff has not benchmarked other communities in relation to this issue. He said that in other communities where he has worked there has not been geographic representation for this type of board. Sheri Van Bibber stated that in some cities the Planning Board also handles Board of Adjustment issues but that she likes having two different Boards. Mr. Taylor stated that he is surprised that it's difficult to find representation to be on a Board. Mr. Tingey stated that right now there are two vacancies, and although there are two applicants, one of them cannot serve because they don't reside in the geographic area. He said that the applicant is very qualified. Ms. Van Bibber stated that she has noticed a number of people don't have as many hours available for volunteering as time commitments are filled by other responsibilities. Mr. Taylor stated that in the future it could become important to have representation from different parts of the city. Ms. Van Bibber stated that she can see this being a significant factor when it comes to planning

and zoning, but not so much with the Board of Adjustment. Tim Tingey stated that having qualified individuals serving on a Board is more important than geographic representation. Sheri Van Bibber stated that people who are willing to serve on Boards have a passion for their city and that there isn't a geographic boundary for that. Mr. Taylor stated that he is concerned with changing something just because it currently doesn't fit, and that he thinks geographical representation is important.

G.L. Critchfield, Deputy City Attorney, stated that years ago it was required by state law that Planning Commissions have geographic representation, but it was never required for Boards of Adjustment. He said that when LUDMA was introduced it did not require that Planning Commissions be geographic anymore, and that when the City Code was updated somebody on the committee felt that there needed to be consistency with the boards. Mr. Critchfield stated that this is the only reason there is a geographic requirement in the code and that there is not a legal reason for it. Tim Tingey pointed out that there are differences between the Planning Commission and Board of Adjustment in the number of members and that the Planning Commission has two members that are not required to have geographic representation. He said that when a Board only has five members, it becomes very difficult if there are vacancies.

Karen Daniels made a motion to forward a recommendation of approval to the City Council for the requested amendment to the zoning ordinance, as modified by staff, which would eliminate Section 17.16.100 so as to not require geographic representation for Board of Adjustment members. Seconded by Tim Taylor.

Call vote recorded by Tim Tingey.

A _____ Sheri Van Bibber

A _____ Karen Daniels

A _____ Tim Taylor

A _____ Ray Black

Motion passed, 4-0.

Meeting adjourned.

Tim Tingey
Community & Economic Development Director